

City of North Miami Beach  
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**MEMORANDUM**

 **Print**

**TO:** Mayor and City Council  
**FROM:**  
**VIA:** Jose Smith, City Attorney  
**DATE:** Tuesday, September 6, 2016  
**RE:** Ordinance 2016-9 First Reading by Title Only (Jose Smith, City Attorney)

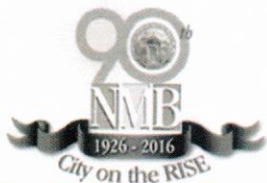
**BACKGROUND  
ANALYSIS:  
RECOMMENDATION:  
FISCAL/BUDGETARY  
IMPACT:**

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**ATTACHMENTS:**

- |  |
|--|
| <input type="checkbox"/> <u>Memo re-Quorum</u>   |
| <input type="checkbox"/> <u>Ordinance 2016-6</u> |

City of North Miami Beach  
**Memorandum**



**CITY ATTORNEY'S OFFICE**

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**TO:** Honorable Mayor George Vallejo  
Members of the City Council

**CC:** Ana Garcia, City Manager  
Pamela Latimore, City Clerk

**FROM:** Jose Smith, City Attorney

**DATE:** September 6, 2016

**RE:** 2-1.1 Meetings of the City Council  
*Quorum Required/Ethical Duty to Remain at City Council Meetings*

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Pursuant to the request of City Councilmember Barbara Kramer, the attached Ordinance has been drafted to address concerns pertaining to recent actions of certain members of the City Council who have left Council meetings prior to the Council's completion of official business. The Ordinance imposes requirements for Councilmembers to remain at Council meetings during any such meeting, and further provides that when instances beyond a Councilmember's control compels his/her presence elsewhere, the Councilmember state into the record such basis prior to the leaving the Council meeting. Finally, the ordinance expressly grants the Miami-Dade County Ethics Commission jurisdiction to enforce this measure's provisions and impose relevant penalties for violation thereof.

**ORDINANCE NO. 2016-9**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CITY OF NORTH MIAMI BEACH CITY CODE CHAPTER II ENTITLED "STRUCTURE OF CITY GOVERNMENT", SECTION 2-1 ENTITLED "CITY COUNCIL", SUBSECTION 2-1.1 ENTITLED "MEETINGS OF THE CITY COUNCIL" AT SUBSECTION (a) THEREOF TO ESTABLISH AN ETHICAL DUTY OF CITY COUNCILMEMBERS TO REMAIN AT CITY COUNCIL MEETINGS DURING THE ENTIRETY OF ANY SUCH COUNCIL MEETING AND PROVIDING FOR JURISDICTION OF MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST TO ENFORCE THIS SUBSECTION; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statute section 286.012 (Florida's "Government in the Sunshine" law) specifically provides that members of governmental bodies are required to perform their responsibilities by participating in decisions to be made by such bodies. Clearly, a member of a governmental body, such as the North Miami Beach City Council, is expected to attend and remain at meetings of the City Council, barring a situation in which that member's presence is unexpectedly required elsewhere;

**WHEREAS**, allowing without restriction a City Councilmember to leave Council meetings prior to its completion of business effectively grants to such Councilmember the means of frustrating official action by merely refusing to remain at a Council meeting, which actions the City Council deems to be inconsistent with a Councilmember's official duties and contrary to the Oath of Office as stated in Section 8 of the City Charter ("...to well and faithfully perform... their duties...");

**WHEREAS**, within the past several months, certain Councilmembers have left Council meetings before the Council's completion of agenda items, necessitating either the postponement and rescheduling of time-sensitive items for future Council meetings or the need for meeting adjournment pending the Council's ability to obtain a quorum, both situations serving to obstruct and impede good, responsive government in the City of North Miami Beach; and

**ORDINANCE NO. 2016-9**



**WHEREAS**, inasmuch as State and County laws permit the governing body of a municipality to impose upon its officers additional or more stringent standards of conduct than those specified in said laws, the City Commission hereby enacts the following to address the above concerns for the purposes of supplementing existing code of conduct regulations applicable to members of the City Council.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of North Miami Beach, Florida:

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** That City of North Miami Beach Code, Chapter II “Structure of City Government”, Article I “The City Council”, section 2-1 “City Council”, subsection 2-1.1 “Meetings of the City Council” at subsection (a) thereof is hereby amended to read as follows:

## **CHAPTER II – STRUCTURE OF CITY GOVERNMENT,**

### **ARTICLE I—THE CITY COUNCIL**

#### **2-1 CITY COUNCIL**

##### **2-1.1 Meetings of the City Council.**

- a. Quorum Required/Ethical Duty to Remain at City Council Meetings. Before the City Council can transact any legal business, there must be not less than five (5) duly qualified Councilmembers present. Furthermore, in order to promote the integrity of Council meetings and to ensure the performance of public duties by the City’s elected officials, Councilmembers shall (subject to restroom or other temporary personal breaks, and subject to a Councilmember’s duty to leave Council chambers during that portion of a Council meeting in which the Councilmember has a voting conflict) remain at City Council meetings throughout the entirety of such meeting, barring an emergency or other matter beyond a Councilmember’s control which compels his/her presence elsewhere, in which event he/she shall state into the record the basis of such emergency/other matter prior to leaving the meeting. Failure of a Councilmember to truthfully state the basis of emergency/other matter prior to leaving the meeting shall constitute a violation of this Code subsection. The Miami-Dade County Commission on Ethics and Public Trust shall enforce the provisions of this subsection and may impose any penalty authorized by County Code pertaining to violations of municipal ethics laws. The

**ORDINANCE NO. 2016-9**

validity of any action or determination of the City Council shall not be affected by the failure of any Councilmember to comply with the provisions herein.

\* \* \*

**Section 3.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held invalid by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

**Section 4.** All other City ordinances and resolutions or parts thereof in conflict with the provisions of this Ordinance are hereby superseded and repealed.

**Section 5.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or re-lettered to accomplish this intention and the word "Ordinance" may be changed to "Section," "Article," or other word as the codifier may deem appropriate.

**Section 6.** This Ordinance shall be effective ten days after adoption on second reading.

**APPROVED BY TITLE ONLY** on first reading this **6<sup>th</sup> day of September, 2016.**

**APPROVED AND ADOPTED** on second reading this \_\_\_\_ day of \_\_\_\_\_, 2016.

ATTEST:

\_\_\_\_\_  
PAMELA L. LATIMORE  
CITY CLERK

(CITY SEAL)

\_\_\_\_\_  
GEORGE VALLEJO  
MAYOR

APPROVED AS TO FORM &  
& LANGUAGE & FOR EXECUTION

\_\_\_\_\_  
JOSE SMITH  
CITY ATTORNEY

Sponsored by: Councilmember Barbara Kramer.